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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,946	12/29/2003	Edward John Giblin	C6664(C)	7892

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/748,946	Applicant(s) GIBLIN ET AL.	
	Examiner Marc A. Patterson	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 1106.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,14-16,20,21,23,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,14-16,20,21,23,27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REPEATED REJECTIONS

1. The 35 U.S.C. 102(b) rejection of Claims 11, 20 – 21, 23 and 27 – 28 as being anticipated by Heydarpour et al (U.S. Patent No. 5,843,540), of record on page 2 of the previous Action, is repeated.

2. The 35 U.S.C. 103(a) rejection of Claims 14 – 16 as being unpatentable over Heydarpour et al (U.S. Patent No. 5,843,540) in view of D'Alessandro (U.S. Patent No. 4,068,663), of record on page 2 of the previous Action, is repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant argues, on page 2 of the remarks dated April 11, 2006, that Heydarpour et al lack any disclosure that the recycling of the disclosed bottle is used to form another bottle; the recycling Applicant argues, may be used to form a different article.

However, the disclosure need not be limited to the disclosure of recycling to form a container; the disclosure that a bottle is recyclable clearly means that the pouch may be recycled into another bottle, having the same structure, even if the bottle may also be recycled to form a different article.

Applicant also argues on page 2 that Heydarpour et al fail to disclose a middle layer that comprise at least 25% by weight post consumer recycled resin.

However, as stated above, Heydarpour discloses a recycled bottle, and therefore comprises a middle layer comprising at least 25% by weight post consumer recycled resin.

Applicant also argues, on page 3, that the outer and inner layers of the claimed invention are each no thicker than 20% of the total wall thickness, leaving at least 60% of the wall thickness for the middle layer.

However, the middle layer must be at least 60% of the thickness only if the wall consists of the three layers; if the wall comprises three layers, the middle layer must be at least 60% of the thickness.

Applicant also argues on page 3 that the bottle of the claimed invention is transparent or translucent and has sufficient strength to handle rugged handling.

However, the bottle disclosed by Heydarpour et al comprises the structural limitations of the claimed invention, as stated in the previous Action, and therefore has the properties of the claimed invention, including being transparent or translucent and has sufficient strength to handle rugged handling.

Applicant also argues on page 3 that intuitively the skilled technician would be hesitant to incorporate any significant amount of recycled resin because the resin is not known to have any appreciable light transmittance.

However, no evidence has been provided which indicates that recycled resin has no light transmittance.

Applicant also argues, on page 4, that transparency or translucency are not achieved with the wrong type of polyethylene, and that recycled plastics are more than likely to contain the wrong type of polyethylene.

However, as stated above, no evidence has been provided which indicates that recycled resin has no light transmittance.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson 6/27/06
Marc A. Patterson, PhD.
Primary Examiner
Art Unit 1772